

**FLORENCE ORCHARD HOMES, LOT 34, AP (SOLHEIM)  
FOUR-LOT SUBSEQUENT MINOR SUBDIVISION AND ONE VARIANCE REQUEST**

**DRAFT STAFF REPORT FOR PLANNING BOARD**

**CASE PLANNER:**

Randy Fifrick



**REVIEWED/**

**APPROVED BY:**

Tristan Riddell



**PUBLIC HEARINGS/  
MEETINGS:**

Planning Board Public Meeting

3:00 p.m. October 21, 2009

BCC Public Meeting:

9:00 a.m. December 3, 2009

Deadline for BCC action:

December 20, 2009

**APPLICANT:**

Karl & Esther Solheim  
482 Hidden Valley Road South  
Florence, MT 59833

**REPRESENTATIVE:**

Kammerer Environmental Consulting  
PO Box 134  
Stevensville, MT 59870

**LOCATION OF REQUEST:** The property is located within the community of Florence off Old U.S. Highway 93. (See Map 1)



**Map 1: Location Map**

(Source Data: Ravalli County GIS Department)

## LEGAL DESCRIPTION

### OF PROPERTY:

A portion of the NW ¼ of Section 16, T10N, R19W, P.M.M., Ravalli County, Montana.

## APPLICATION

### INFORMATION:

The subdivision application was originally deemed sufficient on March 18, 2008. During the public review period the subdivider's consultant asked for and was granted an indefinite continuance to allow the subdivider to evaluate their options on the subdivision, with regards to Iowa Avenue. On September 22, 2009 the subdivision was again deemed sufficient for public review. Agencies were notified of the subdivision on February 17, 2006, April 2, 2008, and September 22, 2009. Comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-2 of the staff report. **This subdivision is being reviewed under the subdivision regulations as amended August 4, 2005.**

### LEGAL NOTIFICATION:

Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked September 23, 2009 and certified mail postmarked September 23, 2009. No public comments have been received to date.

## DEVELOPMENT

### PATTERN:

Subject property	Commercial
North	Commercial
South	Vacant
East	Commercial
West	Athletic Field

## INTRODUCTION

The Florence Orchard Homes, Portion of Lot 34, AP Subsequent Minor Subdivision will result in one commercial and three new residential lots on 4.6 acres, located within the community of Florence. Two of the proposed lots will share a common access off Iowa Avenue. An existing commercial building is located on proposed Lot 34-A.

The applicants signed an indemnification and hold harmless agreement on November 1, 2006 and are thus being reviewed under the Ravalli County Subdivision Regulations amended on August 4, 2005.

At the Planning Board hearing on April 23, 2008, the Board voted 9-0 to recommend approval of the variance from Section 5-2-2(c)(6) to allow access off Iowa Avenue (Exhibit A-1). At that time the applicants were asking for a second variance from making improvements to Iowa Avenue. Before the Board voted on the second variance the applicants requested and were granted a continuance of the hearing. Since that time the applicants have submitted road plans for Iowa Avenue and have dropped their request for a second variance.

The only variance request is from the Ravalli County Subdivision Regulations (RCSR) Section 5-2-2(c)(6) lot access, to allow access off Iowa Avenue. The proposal fronts on Old U.S. Highway 93 (County-maintained), which is classified as a minor collector roadway. In this case the RCSR requires that all lots within the subdivision access off of a road internal to the subdivision. The applicant is proposing to access two lots off of Iowa Avenue and two lots off of Old U.S. Highway 93.

## RAVALLI COUNTY PLANNING BOARD

OCTOBER 21, 2009

### FLORENCE ORCHARD HOMES, PORTION OF LOT 34, AP 4-LOT SUBSEQUENT MINOR SUBDIVISION AND ONE VARIANCE REQUEST

#### RECOMMENDED MOTIONS

1. That the variance request from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to relieve the developer from constructing an internal road, be **approved**, based on the findings of fact and conclusions of law in the staff report.
2. That the Florence Orchard Homes, Portion of Lot 34, AP Subsequent Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

#### RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

The following conditions have been recommended to mitigate any perceived negative effects that this subdivision will have on the seven criteria based on the findings of fact and conclusions of law as discussed within the body of this staff report.

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

**Limitation of Access onto a Public Road.** A "no-ingress/egress" restriction exists along the Old US Highway 93 and Iowa Avenue frontages of this subdivision, excepting the approved approaches as shown on the final plat. Additional "no-ingress/egress" restrictions exist along both sides of the driveway to Lot 34-B as shown on the final plat. This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County Commissioners. (Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health and Safety)

**Wood Stoves.** The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (Section 3-2-7(b)(4), RCSR, Effects on the Natural Environment)

**Lighting for New Construction.** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully

shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). (Section 3-2-7(b)(4, 5, and 6), RCSR, Effects on Natural Environment, Wildlife, Wildlife Habitat, and Public Health and Safety)

**Radon Exposure.** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (Section 3-2-7(b)(6), RCSR, Effects on Public Health & Safety)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

**Waiver of Protest to Creation of RSID/SID.** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (Section 3-2-7(b)(3), RCSR, Effects on Local Services)

**Living with Wildlife.** Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov>. (Section 3-2-7(b)(5), RCSR, Effects on Wildlife)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value:

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as raccoon, black bear, and other wildlife. If stored indoors, it is



best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.

- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract any ungulates (deer, elk, antelope), bears, or mountain lions with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that wildlife such as wild turkey and deer can attract mountain lions to the area.
- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence. Contact FWP for a brochure or information on building fence with wildlife in mind.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- l. **Apiaries (bee hives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.

**Control of Noxious Weeds.** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s) in

accordance with the weed control plan. Contact the Ravalli County Weed District for further information. (*Section 3-2-7(b)(1 and 4), RCSR, Effects on Agriculture and Natural Environment*)

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Florence Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health & Safety*)

**Access Requirements for Lots within this Subdivision.** The Ravalli County Fire Council, which includes the Florence Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire Department for further information. (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health & Safety*)

**Limitation of Access onto a Public Road.** A "no-ingress/egress" restriction exists along the Old US Highway 93 and Iowa Avenue frontages of this subdivision, excepting the approved approaches as shown on the final plat. Additional "no-ingress/egress" restrictions exist along both sides of the driveway to Lot 34-B as shown on the final plat. This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County Commissioners. (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health and Safety*)

**Archeological Resources.** If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-7(b)(4), RCSR, Effects on Natural Environment*)

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

3. The applicant shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-7(b)(3), RCSR, Effects on Local Services*)
4. The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health & Safety*)
5. Prior to final plat approval, the applicant shall provide a letter from the Florence Rural Fire District stating that the applicants have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the applicant may provide evidence that a \$500 per newly created lot contribution has been

submitted to the Florence Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health & Safety*)

6. The following statement shall be shown on the final plat: "The Ravalli County Fire Council, which includes the Florence Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information". (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health & Safety*)
7. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health & Safety*)
8. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Florence School District. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (*Section 3-2-7(b)(3), RCSR, Effects on Local Services*)
9. The applicant shall provide evidence that they have worked with the Florence Post Office and met their requirements for mail delivery to this subdivision, and that any installation has been approved by the Florence Post Office prior to final plat approval. (*Section 3-2-7(b)(3), RCSR, Effects on Local Services*)
10. The final plat shall show a "no-ingress/egress" restriction along the Old US Highway 93 and Iowa Avenue frontages of this subdivision, excepting the approved approaches as shown on the final plat. Additional "no-ingress/egress" restrictions shall be shown along both sides of the driveway to Lot 34-B as shown on the preliminary plat. (*Section 3-2-7(b)(3 and 6), RCSR, Effects on Local Services and Public Health & Safety*)
11. The subdivider shall pave the common approach a minimum of 20 feet wide from the surface of Iowa Avenue back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater. (*Section 3-2-7(b)(3), RCSR, Effects on Local Services*)

#### **FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)**

*The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-3-4(a) et seq. Those items that are not required of this subdivision have been noted by strikethrough.*

1. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied shall be submitted with the final plat submittal.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) shall be submitted prior to final plat approval. The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
  - (a) Project name
  - (b) Title block
  - (c) Certificate of registered owner – notarized

- (d) Certificate of registered land surveyor with seal
  - (e) Certificate of governing body approval
  - (f) Signature block for Clerk and Recorder, preferably in lower right hand corner
  - (g) ~~Certificate of public dedication~~
  - (h) Certificate of park cash-in-lieu payment
  - (i) Other certifications as appropriate
  - (j) North arrow
  - (k) Graphic scale
  - (l) Legal description
  - (m) Property boundaries (bearings, lengths, curve data)
  - (n) Pertinent section corners and subdivision corners
  - (o) Names of adjoining subdivisions/certificates of survey
  - (p) Monuments found
  - (q) Witness monuments
  - (r) Acreage of subject parcel
  - (s) ~~Curve data (radius, arc length, notation of non-tangent curves)~~
  - (t) Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
  - (u) Lots and blocks designated by number (dimensions/acreage)
  - (v) Easements/rights of ways (location, width, purpose, ownership)
  - (w) ~~Dedication for public use (boundaries, area, purpose)~~
  - (x) ~~No-build/alteration zones~~
  - (y) ~~No-ingress/egress zones~~
  - (z) ~~Water resources (rivers, ponds, etc.)~~
  - (aa) ~~Floodplains~~
  - (bb) ~~Irrigation canals including diversion point(s), etc.~~
  - (cc) ~~High-pressure gas lines~~
  - (dd) Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
  4. Any variance decisions shall be submitted with the final plat submittal.
  5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
  6. The final plat review fee shall be submitted with the final plat submittal.
  7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
  8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
  9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
  10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
  11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
  12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication, shall be submitted with the final plat submittal.
  13. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
  14. ~~Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.~~



15. ~~Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.~~
16. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
17. Road certification(s) shall be submitted with the final plat submittal.
18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
20. ~~A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.~~
21. ~~A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.~~
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. ~~Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.~~
24. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
25. ~~Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations shall be submitted with the final plat submittal.~~
26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)
  - (a) Specific infrastructure improvements potential required for this subdivision are they are the construction improvements to Iowa Avenue, construction of the common access, and installation of a mail delivery system.
27. The subdivider shall pay the pro rata share of the cost to improve the portion of Old US Highway 93 and Holloway Lane leading to the subdivision prior to final plat approval. (Section 5-4-5(d), RCSR)



## **VARIANCE REQUEST**

The applicant is requesting a variance from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to relieve the developer from constructing an internal road that would provide access to all lots within the subdivision.

### **Five Variance Review Criteria**

#### **A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

##### **Findings of Fact:**

1. Old US Highway 93 is a County-maintained road classified as a minor collector. (RCSR, Exhibit A as amended May 24, 2007)
2. Iowa Avenue is a non County-standard, non County-maintained road within a deeded easement owned by the Florence-Carlton School District. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
3. The Florence-Carlton School District has granted access off Iowa Avenue to proposed Lots 34C and 34D. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
4. There is an existing commercial building located on the eastern end of the subject property. This commercial building has two existing approaches onto Old Highway 93 that are currently being utilized. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat, Site Visit 9/24/09)
5. The proposed subdivision would create three additional residential lots. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
6. The variance application states that the addition of 16 average daily trips onto Iowa Avenue should not be viewed as a public safety risk. (Florence Orchard Homes, Portion of Lot 34, AP Variance Application)
7. The width of the frontage of this subdivision is 230 feet, and the existing commercial structure occupies 180 feet of that frontage, roughly 78% of the available width. There is 30-feet available for construction between the southern property boundary and the side of the building, and 20-feet of width available for construction between the northern property boundary and the side of the building. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat)
8. In an email sent April 6, 2006, Dan Martin, Florence Voluntary Fire, stated he had concerns regarding the access variances for the residential lots and that in fact it makes sense to him to access the two lots that face Iowa Avenue from Iowa Avenue. (Exhibit A-2)

##### **Conclusions of Law:**

1. The existing structure precludes the construction of a road to the other lots, because there is not enough room between the building and lot lines. A road from Old US Highway 93 to all lots would not be able to meet County standards because of the existing situation, and would therefore affect access by emergency vehicles. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application, Staff Determination)
2. By separating the accesses of the residential and commercial lots, emergency vehicles would have more direct access to the proposed residential Lots 34C and 34D. (Staff Determination)
3. The granting of the variance will not be detrimental to the public health, safety or general welfare. (Staff Determination)

**B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.**

Finding of Fact:

The variance application states that the existing location of the commercial building and current approaches for the commercial enterprises is unique to the property. (Florence Orchard Homes, Portion of Lot 34, AP Variance Application)

Conclusions of Law:

1. There are few parcels within the county that have frontage on two separate roadways. (Staff Determination, Ravalli County GIS Data)
2. The amount of frontage occupied by the existing commercial building relative to the width of the lot is peculiar to this proposal. (Staff Determination)
3. The conditions upon which the variance is proposed are unique to the property. (Staff Determination)

**C. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).**

Finding of Fact:

The variance application does not give any specific examples as to how physical conditions prevent the applicant from meeting the strict letter of the law. (Florence Orchard Homes, Portion of Lot 34, AP Variance Application)

Conclusions of Law:

1. The commercial building exists as a result from the past actions of the land's current or former owners. The building did not have to be constructed to occupy 78% of the frontage width. (Staff Determination)
2. No physical condition exists to prevent the applicant from meeting the strict letter of the law. (Staff Determination)

**D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.**

Findings of Fact:

1. The application states this variance will not vary any zoning provisions. (Florence Orchard Homes, Portion of Lot 34, AP Variance Application)
2. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Ravalli County Clerk & Recorder's Office)
3. The property is not within one of Ravalli County's adopted voluntary zoning districts. (Ravalli County Clerk & Recorder's Office)
4. Ravalli County voters voted to repeal the County's Growth Policy in the 2008 General Election. Consequently, Ravalli County does not have a Growth Policy. (2008 Ravalli County General Election (R-1-08))

Conclusion of Law:

Neither zoning regulations nor the Growth Policy apply to the variance request. (Staff Determination)

**E. The variance will not cause a substantial increase in public costs.**

Findings of Fact:

1. Access is currently provided off of Old U.S. Highway 93. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)

2. Iowa Avenue is a private roadway that is owned by the Florence-Carlton School District, who has granted access to the applicant via Easement Agreement #580853 (Exhibit A-3)
3. The variance application states that the granting of the variance request will not increase public costs, because no public costs are associated with allowing the existing accesses off Old U.S. Highway 93. (Florence Orchard Homes, Portion of Lot 34, AP Variance Application)

Conclusion of Law:

The granting of the variance will not cause a substantial increase in public costs. (Staff Determination)

**Prerequisite Variance Criteria**

**A. Strict compliance with these regulations will result in undue hardship.**

Findings of Fact:

1. The conclusion for Criterion B is that the existence of the commercial building and its current accesses onto Old U.S. Highway 93 and the fact that the lot abuts two roadways are unique conditions to the property.
2. The conclusion for Criterion C is that there are no physical conditions preventing the applicant from meeting the strict letter of the law.

Conclusion of Law:

Strict compliance with these regulations will result in an undue hardship.

**B. Compliance is not essential to the public welfare.**

Findings of Fact:

1. The conclusion for Criterion A is that granting the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties.
2. The conclusions for Criterion D are that the variance request does not pertain to any applicable zoning regulations and does not vary from the provisions in the Growth Policy.
3. The conclusion for Criterion E is that the granting of the variance will not cause a substantial increase in public costs.

Conclusion of Law:

Compliance is not essential to the public welfare.

**C. Overall Conclusion on Hardship and Public Welfare**

The variance application provides evidence that there is an undue hardship and that compliance with the RCSR is not essential to the public welfare.

## SUBDIVISION REPORT

### COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-7(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the standards set forth in the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA):

#### **A. Provides easements for the location and installation of any planned utilities.**

##### Findings of Fact

1. Existing utilities are located along Old US Highway 93 and Iowa Avenue. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat)
2. Old US Highway 93, an existing County-maintained road, is situated within an 80-foot public road and utility easement. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat)
3. Holloway Lane, an existing County-maintained road, is situated within a 60-foot public road and utility easement. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
4. Iowa Avenue is a non County-standard, non County-maintained road within a 60-foot deeded private road and public utility easement owned by the Florence-Carlton School District. (Florence Orchard Homes, Portion of Lot 34, AP Application and Preliminary Plat)

##### Conclusions of Law

1. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)
2. The subdivision application provides for utility easements. (Staff Determination)

#### **B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

##### Findings of Fact

1. The subject property gains legal and physical access from Old US Highway 93, Holloway Lane, and Iowa Avenue. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File, Ravalli County GIS Data)
2. Old US Highway 93 is listed as a county-maintained road. (RCSR Exhibit A)
3. Holloway Lane is listed as a county-maintained road. (RCSR Exhibit A)
4. Iowa Avenue is a non County-standard, non County-maintained road within a 60-foot deeded private road and public utility easement owned by the Florence-Carlton School District. (Florence Orchard Homes, Portion of Lot 34, AP Application and Preliminary Plat)
5. The Florence-Carlton School District has granted access off Iowa Avenue to proposed Lots 34C and 34D. (Florence Orchard Homes, Portion of Lot 34, AP Application)

##### Conclusion of Law

Based on the classifications of the roads providing access to the subdivision and the document from the Florence-Carlton School District granting access, staff has determined that both legal and physical access will be provided to all lots within the subdivision. (Staff Determination)

**C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed.**

Finding of Fact

Based on recommended conditions and final plat requirements in accordance with Section 3-2-7(a)(1) of the RCSR, specific infrastructure improvements potential required for this subdivision are the construction improvements to Iowa Avenue, construction of the common access, and installation of a mail delivery system.

Conclusions of Law

1. The applicant is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant prior to final plat approval (Final Plat Requirements 1 and 26).
2. The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed. (Staff Determination)

**D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. Average lot size of the proposal is 1.19 acres. (Florence Orchard Homes, Portion of Lot 34, AP Application Subdivision)
2. There are no water rights associated with this property. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)

Conclusions of Law

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the applicant is required to:
  - (a) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
  - (b) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
  - (c) reserve and sever all surface water rights from the land.
2. As no water rights are present on the subject property, the subdivision is considered to have met these requirements. (Staff Determination)

**E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no irrigation ditches on or within 300 feet of the property. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat and Subdivision Application)

Conclusions of Law

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the applicant is required to establish ditch easements in the subdivision that:



- (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
  - (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
  - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. As no irrigation infrastructure is present on the subject property, the subdivision is considered to have met these requirements. (Staff Determination)

**F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Findings of Fact

- 1. This subdivision requires a 0.18 acre parkland dedication to meet the park dedication requirement. (Staff Determination)
- 2. In a letter dated April 9, 2008, Robert Cron, representing the Ravalli County Park Board, stated the Park Board will accept a cash-in-lieu donation for this subdivision. (Exhibit A-4)

Conclusions of Law

- 1. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCSR)
- 2. The RCSR exempt parcels created for nonresidential purposes from the parkland dedication requirement. (RCSR 6-1-5(b))
- 3. Pursuant to RCSR Section 6-1-5(a)(2), the applicant is proposing to meet the parkland dedication requirement by making a cash donation to the County. (Staff Determination)
- 4. If the BCC determines that cash-in-lieu is appropriate, the applicant will be required to hire an appraiser as outlined in Section 6-1-7. The BCC will determine whether or not the amount is acceptable (Final Plat Requirement 12)

**COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-7(a)(1) and (2) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets with the standards of this Code and is consistent with zoning regulations and covenants:

**A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

Findings of Fact

- 1. With the approval of the requested variance from Section 5-2-2(c)(6), the subdivision design as indicated on the preliminary plat would meet the design standards in Chapter 5 of the RCSR. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat)
- 2. This development plan proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR. (Staff Determination)
2. The procedures for the application and review of this proposed subdivision as outlined in Chapter 3 of the RCSR have been followed. (Staff Determination)

#### **B. Applicable zoning regulations.**

##### Findings of Fact

1. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Ravalli County Clerk & Recorder's Office)
2. The property is not within one of Ravalli County's adopted voluntary zoning districts. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application, Ravalli County Clerk & Recorder's Office)

##### Conclusion of Law

There are no zoning regulations that apply to the property. (Staff Determination)

#### **C. Existing covenants and/or deed restrictions.**

##### Finding of Fact

There are no existing covenants or deed restrictions on the property. (Ravalli County Clerk & Recorder's Office)

##### Conclusion of Law

There are no covenants or deed restrictions that apply to this property. (Staff Determination)

#### **D. Other applicable regulations.**

##### Findings of Fact

1. Following are regulations that may apply to this subdivision:
  - (a) Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - (b) Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - (c) Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - (d) Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
  - (e) Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at pre-application conference held on July 28, 2005. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)

##### Conclusions of Law

1. Prior to final plat approval, the applicants are required to submit all applicable permits and evidence that they have met applicable regulations. (Section 3-3-4(c)(27), RCSR)
2. With the requirements of final plat approval and approval of the variance the application will meet all of the applicable regulations. (Staff Determination)

**E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

**GENERAL BACKGROUND**

**Findings of Fact:**

1. Florence Orchard Homes, Portion of Lot 34, AP is a proposed subsequent minor subdivision on 4.61 acres that will result in four lots that range in size from 1.01 acres to 1.58 acres. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
2. The property is currently owned by Sapphire Mountain Properties. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application, Ravalli County GIS Data)
3. The property is located in the community of Florence. (Ravalli County GIS Data)

**Conclusions of Law:**

1. The Ravalli County Subdivision Regulations state that Ravalli County reviews a subdivision proposal for the following primary criteria: "the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety." (Section 3-2-8(b)(v), RCSR)
2. House Bill 486 was recently signed into law by the Governor on May 5, 2009. HB 486 amended MCA 76-3-608, which revises the primary subdivision review criteria to separate effects on wildlife and effects on wildlife habitat into separate review criteria. (House Bill 486)
3. The subdivision will be reviewed for the following primary criteria: "the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety." (Staff Determination)
4. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (Section 3-2-7(d), RCSR)
5. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))

**CRITERION 1: EFFECTS ON AGRICULTURE**

**Findings of Fact:**

1. The subject parcel is classified for tax purposes as commercial rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
2. The property is not adjacent to agricultural properties. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
3. The property has not been used for agricultural purposes for many years. (Summary of Probable Impacts - Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
4. According to the newest NRCS Web Soil Survey data the property contains soils classified as not prime farmland. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)

**Conclusions of Law:**

1. A subdivision proposal must be reviewed for its impacts on agriculture. (MCA 76-3-608(3), Section 3-2-7(b)(1), RCSR)
2. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such

as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)

3. The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)
4. With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced. (Staff Determination)

#### Recommended Condition to Mitigate the Effects on Agriculture

- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

#### **CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

##### Findings of Fact

1. There are no water rights associated with this property. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
2. There are no irrigation ditches on or within 300 feet of the property. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat and Subdivision Application)

##### Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on agricultural water user facilities. (MCA 76-3-608(3), RCSR Section 3-2-7(b)(2))
2. As no water rights or irrigation infrastructure are present on the subject property, the subdivision should have no impact on agricultural water user facilities. (Staff Determination)

#### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

##### Findings of Fact:

##### Fire Department

1. The subdivision is located within the Florence Rural Fire District. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision File, Ravalli County GIS Data)
2. Notification letters were sent to the Florence Rural Fire District requesting comments on February 17, 2006, April 2, 2008 and September 22, 2009. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
3. In an email sent April 6, 2006, Dan Martin, Florence Voluntary Fire, stated the only request from the Fire District is that homes have residential sprinklers systems or the developer make a \$500 donation to the Fire District for each additional lot being created. (Exhibit A-?)
4. In a phone conversation on October 1, 2009, Florence Fire Chief Charlie Lambson stated his Board was not comfortable raising the cash in lieu of water supply from \$500 to \$900 along with the rest of the Ravalli County Fire Council. His Board was in agreement with the rest of the provisions in the Ravalli County Fire Council Fire Protection Standards (Exhibit A-5) received by the Planning Department July 27, 2009, except they are asking \$500 or the water supply. (Exhibit A-6)

##### School District

5. The proposed subdivision is located within the Florence School District. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision File, Ravalli County GIS Data)
6. It is estimated that 1.5 school-aged children will be added to the Florence School District, assuming an average of 0.5 children per household. (Census 2000)
7. Notification letters were sent to the Florence School District requesting comments on February 17, 2006, April 2, 2008 and September 22, 2009. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)



8. A letter was received from Florence School Superintendent John McGee on April 10, 2008 requesting a fee of \$10,418 per lot citing information from an August 8, 2006 Impact Fee Study completed for the District. (Exhibit A-7)
9. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the budget per pupil would be \$6,811 for the Florence School District. The tax levy per pupil excluding capital would be \$2,246 for the Florence School District. (Exhibit A-8)
6. The applicant is proposing to negotiate a voluntary contribution to the School District with the Board of County Commissioners. (Summary of Probable Impacts - Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Public Safety

7. The Ravalli County Sheriff's Office provides law enforcement services to this area. Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
8. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on February 17, 2006, April 2, 2008 and September 22, 2009, but no comments have been received to date. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
9. This proposed subdivision is located approximately 30 miles from the Sheriff's dispatch in Hamilton. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application and Ravalli County GIS Data)
10. The average number of people per household in Ravalli County is 2.5. This subdivision is estimated to add 7.5 people to the County. (Census 2000)
11. Taxes from new residents may not be immediately available to law enforcement services, E-911, Office of Emergency Management (OEM) and Disaster & Emergency Services (DES). There is no available information on the average amount of time between when public safety services begin to serve a new residence and when public safety services receive tax money from that residence. (Staff Determination)
12. The applicant has not proposed any specific mitigation for Public Safety at this time. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Roads

13. The subdivision proposal is to add three new residential lots to the existing commercial lot. It is estimated at build-out that this subdivision could generate a total of 32 additional vehicular trips per day, assuming eight trips per day per residential lot. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
14. The subject property gains legal and physical access from Old US Highway 93, Holloway Lane, and Iowa Avenue. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat, Ravalli County GIS Data)
15. Old US Highway 93 is listed as a county-maintained road. (RCSR Exhibit A)
16. Holloway Lane is listed as a county-maintained road. (RCSR Exhibit A)
17. Iowa Avenue is a non County-standard, non County-maintained road within a 60-foot deeded private road and public utility easement owned by the Florence-Carlton School District. (Florence Orchard Homes, Portion of Lot 34, AP Application and Preliminary Plat)
18. The Florence-Carlton School District has granted access off Iowa Avenue to proposed Lots 34C and 34D. (Florence Orchard Homes, Portion of Lot 34, AP Application)
19. Lots 34-C and 34-D will access off Iowa Avenue via a common driveway. Lot 34-B will access off Old US Highway 93 via a 30' road and utility easement. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
20. The subdivider is required to pay the pro rata share of the cost to improve the portions of Holloway Lane and Old US Highway 93 leading to the subdivision to meet County standards. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)



#### Ambulance Services

21. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital and was contacted on February 17, 2006, April 2, 2008 and September 22, 2009, but no comments have been received to date. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Water and Wastewater Districts

22. The applicant is proposing individual wells and individual wastewater treatment facilities to serve each lot. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
23. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Solid Waste Services

24. Bitterroot Disposal provides service to this site. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
25. Notification letters were sent to Bitterroot Disposal requesting comments on February 17, 2006, April 2, 2008 and September 22, 2009, but no comments have been received to date. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Mail Delivery Services

26. Notification letters were sent to Florence Post Office requesting comments on December 6, 2007 and June 26, 2009, but no comments have been received to date. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
27. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-9).

#### Utilities

28. The proposed subdivision will be served by Northwestern Energy, Ravalli Electric Cooperative and Qwest Communications. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
29. Notification letters were sent to the utility companies requesting comments on February 17, 2006, April 2, 2008 and September 22, 2009. No comments have been received to date from either utility company. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Pedestrian Facilities

30. A paved trail runs along the Old US Highway 93 frontage of the subdivision. (Site Visit 9/24/09)

#### Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on local services. (MCA 76-3-608(3), Section 3-2-7(b)(3), RCSR)

#### Fire District

2. Each lot shall be located within a fire district. (Section 5-7-4(a), RCSR)
3. Ravalli County does not have Building Codes nor does the County currently have the ability to enforce Building Codes. Even if the subdivider agreed to require that all new homes install sprinkler systems as a condition of approval, the County would have no means of ensuring such condition was met. (Staff Determination)

#### School District

4. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal. (Final Plat Requirement 24)
5. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services. (MCA, 76-3-608(1))
6. Senate Bill 116 lays out guidelines and requirements that must be met in order for School Districts to adopt impact fees. Although the Florence School District has completed an Impact Fee Study the BCC has yet to adopt Impact Fees for the Florence School District. (Staff Determination)

#### Roads

7. The RCRBD's Access Encroachment Policy establishes guidelines for the issuance of approach permits. Section III(c) sets the standards associated with new approaches onto local access roadways. The proposal meets the RCRBD adopted policy. (Ravalli County Resolution No. 2287)
8. Where a subdivision is accessed by a substandard County-maintained road(s), the developer shall contribute to the County an amount equal to the pro-rata share of the improvements necessary to bring said road(s) up to County road standards as described in the County's adopted standards over its relevant length as listed in Table A-I. (RCSR Section 5-4-5(d))
9. The applicant shall submit final approved approach permit from the Ravalli County Road and Bridge Department prior to final plat approval. (Final Plat Requirement 13)
10. The subdivider shall pay the pro-rata share of the cost to improve Holloway Lane and Old US Highway 93 over there relative lengths from US Highway 93 to the subdivision entrances prior to final plat approval. (Final Plat Requirement 27)

#### Water and Wastewater Districts

11. In accompaniment to the preliminary plat submittal, the subdivider is required to submit water and sanitation information in accordance with the requirements outlined within MCA 76-3-622(2).
12. The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final plat approval. (Final Plat Requirement 9)

#### Solid Waste Services

13. The method of solid waste disposal shall be specified during preliminary plat review. (RCSR Section 5-7-2(a))

#### Mail Delivery Services

11. Where mail delivery will not be provided to each individual lot, the subdivider shall provide an off-road area for central mail delivery within the subdivision (RCSR 5-7-3)

#### Utilities

12. Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)
13. The applicant shall submit utility availability certifications from Northwestern Energy, Ravalli Electric Cooperative and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)
14. With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced. (Staff Determination)

#### Recommended Conditions to Mitigate the Effects on Local Services

- A notification of the limitation of access shall be included in the notifications document. (Condition 1)
- Provisions in the covenants shall require that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)
- To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)
- The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)
- Prior to final plat approval, the applicant shall provide a letter from the Florence Rural Fire District stating that the applicant have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the applicant may provide evidence that a \$500-per-new-lot contribution has been made to the Florence Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)
- The following statement shall be shown on the final plat: "The Florence Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information". (Condition 6)
- The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 7)
- The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Florence School Districts. The applicant shall ensure that the decided upon mitigation, if any, has been implemented prior to final plat approval. (Condition 8)
- The applicant shall provide evidence that they have worked with the Florence Post Office and met their requirements for mail delivery to this subdivision, and that any installation has been approved by the Florence Post Office prior to final plat approval. (Condition 9)
- The final plat shall show a "no-ingress/egress" restriction along the Old US Highway 93 and Iowa Avenue frontages of this subdivision, excepting the approved approaches as shown on the final plat. Additional "no-ingress/egress" restrictions shall be shown along both sides of the driveway to Lot 34-B as shown on the preliminary plat. (Condition 10)
- The subdivider shall pave the common approach a minimum of 20 feet wide from the surface of Iowa Avenue back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater. (Condition 11)

#### CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

##### Findings of Fact:

##### Surface Water Features

1. There are no natural surface water features within 100 feet of the property. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat)

##### Light Pollution

2. The addition of residences in this area has the potential to increase light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark Sky Association)

#### Air Quality

3. This proposed subdivision would add 3 new homes to an area of existing low density development in the community of Florence. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat, Site Visit)
4. The Montana Department of Environmental Quality (DEQ) has reviewed the PM<sub>2.5</sub> (particulate matter  $\leq 2.5$  micron) data collected in 2007 and incorporated it into the PM<sub>2.5</sub> dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. (Exhibit A-10)
5. Sources of particulate from this subdivision could include increased vehicular use and additional wood-burning stoves. (Staff Determination)

#### Vegetation

6. According to the Montana Natural Heritage Program no plant species of special concern were identified within the same section as the proposal. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)
7. No wetland vegetation was observed on the property. (Staff Site Visit 10/24/09)

#### Historical/Archeological Sites

8. There are no known sites of historical significance on the property. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)

#### Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on the natural environment. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(4))

#### Vegetation

2. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
3. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision. (Final Plat Requirement 11)
4. Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval. (Staff Determination)

#### Recommended Conditions to Mitigate the Effects on the Natural Environment

- *The notifications shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
- *The notifications shall include a recommendation that EPA-certified wood stoves should be installed to reduce air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 1)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
- *To ensure that any possible historical sites are preserved, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State*



*Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

#### **CRITERION 5: EFFECTS ON WILDLIFE**

##### **Findings of Fact:**

1. The property is not located in mapped elk or mule deer winter range. (Ravalli County GIS Data)
2. In a letter dated September 30, 2005, FWP stated that this property has an elevated probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-11)
3. FWP stated that wildlife such as white-tailed deer, fox, and skunk are found in the area, as well as an occasional black bear or mountain lion, and numerous smaller mammal and bird species could be found on the property. (Exhibit A-11)
4. In a follow-up letter dated September 24, 2009, FWP provided updated "living with wildlife" covenants for the subdivision. (Exhibit A-12)
5. According to the Montana Natural Heritage Program the Grey Wolf was identified as an animal species of concern that could exist in the same section as the proposal. The applicant requested and received a waiver from the requirement to submit a sensitive species report for the species based on a lack of habitat on the property. (Sunnyside Orchards 4, Block 14, Lot 13, AP Subdivision File)

##### **Conclusions of Law:**

1. A subdivision proposal must be reviewed for its impacts on wildlife and wildlife habitat. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(5))
2. House Bill 486 was recently signed into law by the Governor on May 5, 2009. HB 486 amended MCA 76-3-608, which revises the primary subdivision review criteria to separate effects on wildlife and effects on wildlife habitat into separate review criteria. (House Bill 486)
3. With the mitigating condition of approval, impacts on wildlife will be reduced. (Staff Determination)

##### **Recommended Condition to Mitigate the Effects on Wildlife**

- *The covenants shall include a living with wildlife section. (Condition 2)*

#### **CRITERION 6: EFFECTS ON WILDLIFE HABITAT**

##### **Finding of Fact:**

1. The property is not located in mapped elk or mule deer winter range. (Ravalli County GIS Data)
2. There are no riparian areas located on or adjacent to the property. (Staff Site Visit 10/24/09)

##### **Conclusions of Law:**

3. A subdivision proposal must be reviewed for its impacts on wildlife and wildlife habitat. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(5))
4. House Bill 486 was recently signed into law by the Governor on May 5, 2009. HB 486 amended MCA 76-3-608, which revises the primary subdivision review criteria to separate effects on wildlife and effects on wildlife habitat into separate review criteria. (House Bill 486)
5. With this division of land, impacts on wildlife habitat will be minimal. (Staff Determination)



## CRITERION 7: EFFECTS ON PUBLIC HEALTH & SAFETY

### Findings of Fact:

#### Traffic Safety

1. Access is proposed off Iowa Avenue and Old US Highway 93. (Florence Orchard Homes, Portion of Lot 34, AP Preliminary Plat)
2. A paved trail runs along the Old US Highway 93 frontage of the subdivision. (Site Visit 10/24/09)

#### Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Florence Rural Fire District, the Ravalli County Sheriff's Office, Ravalli County E-911, Ravalli County Office of Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Water and Wastewater

4. The applicant is proposing individual wells and individual wastewater treatment facilities to serve each lot. (Subdivision Application Form - Florence Orchard Homes, Portion of Lot 34, AP Subdivision Application)
5. The applicants submitted water and sanitation information per MCA 76-3-622.
6. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Florence Orchard Homes, Portion of Lot 34, AP Subdivision File)

#### Natural and Man-Made Hazards

7. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)

### Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on public health and safety. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(6))

#### Emergency Vehicle Response Time

2. The requirements listed under Fire Department, Public Safety, Emergency Services, and Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on emergency vehicle access and response time. (Staff Determination)

#### Water and Wastewater

3. In accompaniment to the preliminary plat submittal, the subdivider is required to submit water and sanitation information in accordance with the requirements outlined within MCA 76-3-622(2).
4. The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final plat approval. (Final Plat Requirement 9)
5. With the mitigating conditions of approval and requirements of final plat approval, impacts on Public Health & Safety will be reduced. (Staff Determination)

### Recommended Conditions to Mitigate the Effects on Public Health & Safety

- *The notifications document shall include a statement regarding radon exposure. (Condition 1)*
- *The notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*

**Ravalli County Planning Board  
Meeting Minutes for April 23, 2008  
3:00 p.m.  
Commissioners Meeting Room, 215 S. 4<sup>th</sup> Street, Hamilton, Montana**

**Public Meeting**

Riverside Meadows (Norgaard) Major Subdivision  
Florence Orchard Homes (Solheim) Minor Subdivision and Two Variance Requests  
Orchard Hills Estates (Wil-Rock, LLC) Major Subdivision

*This is a summary of the meeting, not a verbatim transcript. A CD of the meeting  
may be purchased from the Planning Department for \$5.00.*

**1. Call to order**

Lee called the meeting to order at 3:05 p.m.

**2. Roll Call (See Attachment A, Roll Call Sheet)**

**(A) Members**

Mary Lee Bailey (excused)  
Dale Brown (present)  
John Carbin (present)  
Jim Dawson (present)  
Ben Hillicoss (present)  
Dan Huls (excused)  
JR Iman (present)  
Lee Kierig (present)  
Chip Pigman (present)  
Les Rutledge (present)  
Jan Wisniewski (present)

Park Board Representative: Bob Cron (present)

**(B) Staff**

John Lavey  
Kimberli Conder

**3. Approval of Minutes**

Lee asked if there were any corrections or additions to the minutes from April 16, 2008. There was one minor change but the minutes were approved with the change included.

4. **Amendments to the Agenda**

**John Lavey** stated that there would be a change in the order of subdivisions and that all three would be heard today. Riverside Meadows is still first, Orchard Hills Estates and Florence Orchard Homes order would be switched around.

5. **Correspondence**

There was none.

6. **Disclosure of Possible/Perceived Conflicts**

There were none.

7. **Public Meeting**

**(A) Riverside Meadows (Norgaard) Major Subdivision**

(i) Staff Report on the Subdivision

(ii) Presentation by Subdivider's Representative

**Tony Prothero**, the subdivider's representative who is from Intermountain Consulting Engineers, LLC in Helena, said that the staff report was accurate and had a few things to add.

**Tony** stated that some of the soil that is of importance is in the parkland area, but as of now that area will not be built on because it will be dedicated as parkland. He also said that DEQ had approved everything but the developer asked them to wait until the decision of what will be done with the parkland issue has been settled. This area has been used for haying but there is no real sustainability for agricultural use there. Last he wanted it to be known that this would take about 10 years to build out.

(iii) Acceptance of written public comments to transmit to the Ravalli County Commissioners, and a brief explanation of effective ways for the public to comment on subdivision proposal.

There were none.

**Les** asked if there is a provision for a bus shelter so children will have an area to wait for the school bus.

**Tony** said that they have not proposed anything. After talking to the school district they did not indicate that we would need to provide anything like that, but if necessary he said that they would not be opposed to a discussion.

**Les** said that it was his understanding that busses would not go on private roads.

**Tony** said that the school district indicated that if the Planning Board required it then they would work with the developer to get something settled.

**Les** said that he thought this was something that needed to be taken care of before the final plat. He also asked if there were any plans of sidewalks or trails.

**Tony** answered that after the easements there is not a lot of room for walks. Also, these will be very low traffic streets. Again, if the county prefers to have the sidewalks they can talk about that also.

**Ben** said that The Planning Board, though it is not in the regulations, tries to encourage having something on at least one side for children's safety. He said they also encourage trails. He said that his recommendation would be to have a connection to the other trails of the other communities in that area.

**Tony** said that they will look into something like that.

**Ben** recommended a subdivision garden be located within the proposed parkland area. He also stated that he thought it mentioned in the regulations that there were rules against having a 10 year build out.

**John Lavey** said that this is only true in a phased subdivision and this is not a phased subdivision.

**Chip** said that it is not a big deal because they will still be paying taxes on this property.

**Ben** asked if the developer's did any traffic counts.

**Tony** stated that they did several. He said that in the final road plans they are required to get an updated approach permit from MDT for Huckleberry Lane. Tony said that a couple of years ago there was not a huge difference in traffic but now there may be so he will go ahead and get the new permit to be safe.

**Ben** said that he is more concerned about the cumulative impact as research shows that the light at Florence is already over used.

**Chip** said that he was looking through the application and he may have missed it, he was wondering if there was a letter from MDT that he had missed somewhere. He said he knew that MDT is on the agency list and he just wanted to make sure that he did not miss something important.

**Ben** said that there is nothing in the packet but that he was given the information and asked not to hand it out.

**Bob** said that he was not entirely sure what the Parks Board had discussed, as he has been out of town, as far as trails. His thoughts are that it is very important to have at least 5 foot paved trails. Relative to the park, Fish and Wildlife recommended a no build no alt zone there is occasionally too much rain that could potentially cause trouble in the future, this is why the Board would prefer Cash – in – Lieu.

**Jim** stated that he did not find any soil, perc or septic tests in the application anywhere.

**Tony** state that all of that information was handed over to DEQ. He also said that they are waiting on what Planning Board decides so they can see where Environmental Health and DEQ would take their next steps.



**Jim** asked if there were any cumulative impact analyses on the drainage into soils.

**Tony** said yes and the worst case scenario was 3 consecutive drain fields to do tests on.

**Jim** asked if any pump tests had been done.

**Tony** said no because there is plenty of wells or water supply in that area.

**Chip** asked the staff regarding their decision behind condition #9. He asked that if the applicant maintains the road and then the public gets to use it and do whatever they want to it, would it be possible to put it in as private road with a public easement.

**John Lavey** said that it was not a problem to do that and it is more accurately put that way as well.

**JR** said that as long as there is a RMA, then the bus will drive on a private road.

**Les** said if that is the case, then the development needs to show that agreement to the superintendent and then get that into the covenants.

**JR** said that if the school does not respond to this letter already then why is that the developers fault. He said that he would suggest a hammerhead turn so that the bus is off of Eastside Highway.

**Les** said that yes he agrees with JR, but that there should be a shelter too.

**Chip** said in the past that we have heard that they like to stop traffic both ways on the highway because then it is easier rather than trying to cross traffic to turn.

**Lee** asked that as a board do we stick status quo or do we request that they have this shelter and request response from the school district.

**JR** said that we need to request a letter from the school asking which or both would they like to see.

**Lee** said that he would like to see this included in the motion when it is made so that we can make sure that this truly happens.

**John Carbin** said that the Public Health and Safety Issues have not been addressed. He said that just like last week the response time is still a significant concern.

**Lee** stated that he also had some concerns regarding criterion 3 & 6. There have been no changes in the Sheriff, ambulance, or fire since last week. He stated for the record, that he still has an issue with all of these things.

**Les** said that in some respects he disagrees with Lee on this. Different from last week, this development is within 2-3 miles from the fire station, this development has EMTs and response time with in probably 5-10 minutes. He said that the Board's concerns of last week are not the same. He then stated that they should go around the circle for the 6 criteria and determine whether significant or insignificant independently.

Lee said that sounded fine and to start with JR.

(iv) Planning Board deliberation and recommendation on the subdivision proposal.

**Board discussion and deliberation on the Six Criteria for Subdivision Review** (See Attachment C, Six Criteria for subdivision review)

**1. Effects on Agriculture, including effects on the agricultural sector, loss of agricultural ground and effects on surrounding agricultural activities or practices.**

Ben said there was a significant impact, but the developer could mitigate the loss of statewide land with the subdivision garden.

John Carbin abstained from voting as he thought he did not have enough information to vote correctly.

The other 7 members of the board voted that there was an insignificant impact.

**2. Effects on Agricultural water-user facilities.**

All nine voting members said there was a non-significant effect.

**3. Effects on local services, including public road system, police and fire protection, utilities and public schools.**

Four of the voting members decided there was a significant impact because the road is dangerous for the fire department, EMTs, and arrival for police services, and the impact on the school district.

Five of the voting members voted that there was a non-significant impact because there are adequate services nearby, and there is access to a major highway.

**4. Effects on the natural environment, including ground water contamination, riparian/wetland areas, soil erosion, vegetation and air pollution and noxious weeds.**

Jim voted that there was a significant impact because the evaluation is incomplete. He said that he understands that all the information is with DEQ but he would like to see the results and not just hear about them.

The rest of the voting members voted there was not a significant impact.

**5. Effects on wildlife and wildlife habitat, including fisheries and mammals.**

All nine voting members voted that there was a non-significant impact.

**6. Effects on public health and safety, including sanitary issues such as sewage disposal and ground water contamination, police and fire protection, wild land fire hazard, traffic safety and the presence of other known hazards (onsite and offsite) such as high-pressure natural gas lines, airports, overhead power lines, industrial activities, mining activities , irrigation ditches and defined dam inundation areas.**

Five voting members stated that there is significant impact because of lack of evidence of protecting the water, the lack of response time from law enforcement, and extended response time in general for services.

Four voting members decided there was no significant impact because there was adequate mitigation and because of the conditions stated in the staff report.

**John Lavey** asked the board if they wanted to discuss Conditions 7 & 8 of the Staff Report.

**Chip** stated that the staff report says this will be decided by the BCC. He said that he thinks the board should just stick to that deferment.

**Jim** made a motion to deny the subdivision proposal based on significant impacts of Criterion 6, no significant data on soils or groundwater, no significant studies on impacts on streams for subdivisions, and there are no specific drain tests or perc tests.

**Ben** seconded the motion.

**The vote was called; the members voted (5-4) to approved the motion to deny the subdivision.** (See Attachment E, Ravalli County Planning Board Voting Sheet)

**(B) Orchard Hills Estates (Wil-Rock, LLC) Major Subdivision**

**(i) Staff Report on the subdivision**

**John Lavey** gave the staff report stating that the Planning Staff recommends approval of the Orchard Hills Estates Major Subdivision based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.

**(ii) Presentation by Subdivider's Representative**

**Terry Nelson** of Applebury Survey is the Applicant's Representative. He stated that they agree with the Planning Staff and the conditions. The well septic/sanitation are two separate entities in the law. According to the law DEQ cannot give approval until the comments from the Planning Board and the BCC have come through. But this subdivision has met all the state and local approval laws. A traffic analysis was done and it is fairly unique. We worked with RCRBD and they gave us some recommendations on striping, road signs, guardrails etc. and the developers have already done these recommendations. As for the public health and safety, fire, sheriff, EMTs etc, the state law clearly outlines a procedure for impact fees. There are some soils that are important but we have set those aside as no build/ no alt zones. Also, approximately 14 acres are set aside for no build for protection of natural resources. The applicant has requested that this be dedicated to Parkland Development.

**(iii) Acceptance of written public comments to transmit to the Ravalli County Commissioners, and a brief explanation of effective ways for the public to comment on subdivision proposal.**

There were none.

**Bob** asked why there is only irrigation available to the big lots and not all of the lots.

**Terry** stated that it is because when you get to the smaller lots the irrigation water is not clean enough.

**Les** asked if the 14 acres of no build, no alt zone is before or after fencing and if that included the whole ditch area as well.

**Terry** said that the entire acreage was included in that number.

**Les** said that he noticed the 4 foot gravel trail for a horse path, and wondered if that could be blacktopped and use it for a human path also.

**Terry** said that given the size of lots and the potential of the number of people that they are anticipating that will have horses in this area, gravel is better for the horses and can be used for the people too.

**John Carbin** asked if Terry knew anything about the response time estimate.

**Terry** said that he does not have an exact, but this area is right in the middle between Corvallis and Stevi so response time should be fine.

**JR** stated that the ground that is not irrigated is lost according to BRID. Also he wanted to know how the water is coming out of the canal.

**Terry** stated that there is no new access but that it will be re-routed.

**JR** said that his concern is that they are measuring AFTER it comes out of the canal and he does not see any volume control. He asked if they had that information somewhere.

**Willie Schrock**, the subdivider, stated that yes they do.

**JR** said that as the representative for the Conservation District he has no problems with this subdivision.

**Lee** asked if there was any historical regard because of it being an old orchard track.

**Terry** said that it used to be but it has not been orchard in a long time.

**Bob** said, for the record, the Parks Board recommended cash-in-lieu and we did not see too much wild life damage. The reason we would rather see cash-in-lieu is because Corvallis could really put those funds to good use. And finally, he said that he finds the gravel path to be adequate.

- (iv) Planning Board deliberation and recommendation on the subdivision proposal.

**Board discussion and deliberation on the Six Criteria for Subdivision Review** (See Attachment F, Six Criteria for subdivision review)

**1. Effects on Agriculture, including effects on the agricultural sector, loss of agricultural ground and effects on surrounding agricultural activities or practices.**

**Ben** said there was a significant impact because this is prime ag land.



The other eight members of the board voted that there was an insignificant impact.

**2. Effects on Agricultural water-user facilities.**

JR said that it does have a significant impact, but that the application has been submitted on the irrigation plan and volume control and meets BRID standards so he is ok with that.

All nine voting members found an insignificant impact.

**3. Effects on local services, including public road system, police and fire protection, utilities and public schools.**

All nine voting members stated that there was not a significant impact.

**4. Effects on the natural environment, including ground water contamination, riparian/wetland areas, soil erosion, vegetation and air pollution and noxious weeds.**

All nine voting members stated that there was not a significant impact.

**5. Effects on wildlife and wildlife habitat, including fisheries and mammals.**

All nine voting members voted that there was a non-significant impact.

**6. Effects on public health and safety, including sanitary issues such as sewage disposal and ground water contamination, police and fire protection, wild land fire hazard, traffic safety and the presence of other known hazards (onsite and offsite) such as high-pressure natural gas lines, airports, overhead power lines, industrial activities, mining activities , irrigation ditches and defined dam inundation areas.**

Jim stated that there is a significant impact because of lack of evidence of protecting the water, the lack of response time from law enforcement, and extended response time in general for services.

The other eight voting members do not think there is a significant impact.

JR made a motion to approve the subdivision based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.

Chip seconded the motion.

**The vote was called; the members voted (9-0), to approve the motion to approve the subdivision proposal.** (See Attachment G, Ravalli County Planning Board meeting Vote sheet)

**(C) Florence Orchard Homes (Solheim) Minor Subdivision and Two Variance Requests**

**i. Staff Report on the Subdivision**

John gave the staff report stating the following:

- 1) That the variance request from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to relieve the developer from constructing an internal road, be **approved**, based on the findings of fact and conclusions of law in the staff report.
- 2) That the variance request from Section 5-4-5(e) of the Ravalli County Subdivision Regulations to relieve the developer from improving Iowa Avenue to County Standards, be **denied**, based on the findings of fact and conclusions of law in the staff report.
- 3) That the Florence Orchard Homes, Portion of Lot 34, AP Minor Subdivision be **denied**, based on the fact that the proposal does not comply with the Ravalli County Subdivision Regulations.

Based on the recommendation for denial of variance #2, staff is recommending a denial of the subdivision proposal as a result of an incomplete application.

ii. Presentation by Subdivider's Representative

**Jake Kammerer**, of Kammerer Environmental Consulting, stated that all of the lots to Iowa were written into agreement of lot owners, but the previous County Attorney did not agree with that. The original purpose of the SID but it fell apart.

- iii. Acceptance of written public comments to transmit to the Ravalli County Commissioners, and a brief explanation of effective ways for the public to comment on subdivision proposals

There were none

**Ben** stated that he would not want a lot that accesses off Iowa.

**Lee** said that this is an undo hardship because of the cost.

iv. Planning Board deliberation and recommendation on variance one.

**Ben** made a motion to approve the variance request from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to relieve the developer from constructing an internal road

**John Carbin** seconded the motion.

**The vote was called; the members voted (9-0), to approve the motion to approve the first variance proposal.**

**Jake** asked if he could get a continuance so that he could take care of some things and speak with his client.

**8. Communications from Staff**

There was none.

**9. Communications from Public**

There was none.

**10. Communications from The Board**

There was none.

**11. New Business**

There was none.

**12. Old Business**

There was none.

**13. Next Regularly Scheduled Meeting: May 7, 2008 at 7:00 p.m.**

(A) Quast Dairy Lots (R & G Inc.) Major Subdivision

**14. Adjournment**

Lee adjourned the meeting at 6:30 p.m.

**Tristan Riddell**

---

**From:** Jean Kammerer [kammerer@cybernet1.com]  
**Sent:** Thursday, April 06, 2006 1:29 PM  
**To:** Tristan Riddell  
**Subject:** Fw: Florence Orchard Homes, portion of lot 34, AP

FYI from Florence Volunteer Fire

----- Original Message -----

**From:** dan martin  
**To:** kammerer@cybernet1.com  
**Sent:** Thursday, April 06, 2006 10:41 AM  
**Subject:** Florence Orchard Homes, portion of lot 34, AP

Jean,

I have no concerns regarding the access variances for the residential lots. In fact it makes sense to me to access the 2 lots that face Iowa avenue from Iowa Avenue.

The only request that the Fire District makes is that the homes have residential sprinkler systems or the developer make a \$500.00 donation to the district for each additional lot being created. The funds would be used to purchase additional apparatus or develop water supplies.

If you have any further questions feel free to contact me.

Dan Martin Fire Chief  
Florence Vol.Fire

Exhibit A-2

4/6/2006



## Easement Agreement

This agreement, entered into this 17<sup>th</sup> day of November 2006, is made by and between

**GRANTOR: FLORENCE-CARLTON SCHOOL DISTRICT**  
5602 Old Highway 93  
Florence, MT 59833

and

*DE* **GRANTEE: KARL & ESTER SOLHEIM**  
Sapphire Mountain Properties, LLC  
5535 Old U.S. Highway 93  
Florence, MT 59833

The parties hereby agree as follows:

**LOCATION:** Iowa Avenue, a private roadway located in the SW ¼ of Section 11, Township 10N, Range 20W, P.M.M., Ravalli County, Montana and owned by the Florence-Carlton School District, from its intersection with Holloway Lane to a single common access proposed for lots 34-C and 34-D of Florence Orchard Homes, Portion of Lot 34, AP.

**PURPOSE:** The purpose of this agreement is to provide a continuous right-of-way easement along the Grantor's property (Iowa Avenue) from its intersection with Holloway Lane to a single common access proposed for the purpose of providing ingress and egress to the Grantee's properties, located in Florence Orchard Homes, Portion of Lot 34, AP (proposed lots 34-C and 34-D).

**RSID WAIVER:** The Grantor is currently seeking a rural improvement district for the purpose of improving and/or maintaining Iowa Avenue. Grantee hereby acknowledges Grantor's intention to seek a rural improvement district and agrees that this easement is taken subject to any future rural improvement district as imposed by the Board of County Commissioners.

**IN WITNESS WHEREOF,** the above named Parties have hereunto set their hands and seals on the above written, and for themselves, their heirs, administrators and assigns, do hereby agree to do the full performance of the covenants and agreements as hereinabove set forth.

**GRANTOR**

*Joda C. Miller*

*Superintendent, Florence-Carlton*

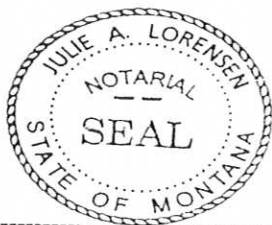
**GRANTEE**

*Karl G. Solheim*  
Karl G. Solheim

*Ester D. Solheim*  
Ester D. Solheim

STATE OF MONTANA )  
County of Ravalli ) ss.

This instrument was acknowledged before me on the 17 day of November, 2006, by  
John C. McGee



Julie A. Lorensen  
Notary Public in and for the State of Montana

Julie A. Lorensen  
Printed name of notary

Residing at Florence, Montana

My Commission Expires: 05-10-2008

STATE OF MONTANA )  
County of Ravalli ) ss.

This instrument was acknowledged before me on the 1<sup>st</sup> day of November, 2006, by  
Karl G. and Esther D. Solheim



JEAN M. KAMMERER  
NOTARY PUBLIC-MONTANA  
Residing at Stevensville, Montana  
My Comm. Expires Aug. 17, 2008

Jean M. Kammerer  
Notary Public in and for the State of Montana

Jean M. Kammerer  
Printed name of notary

Residing at Stevensville, Montana

My Commission Expires: 8/17/2008

April 9, 2008

Ravalli County Planning Department  
215 South 4<sup>th</sup> Street, Suite F  
Hamilton, MT 59840

RECEIVED

APR 11 2008  
LC-08-04-343  
Ravalli County Planning Dept.

Subject : Florence Orchard Homes Pt. Lot 34, A.P. (Solheim)  
Preliminary Plat

Dear Planner:

Florence Orchard Homes Pt. Lot 34, A.P. (Solheim) preliminary plat shows 3 residential and 1 commercial lot on 4.77 acres. The required parkland dedication would be five percent of the 3.6 acres proposed for residential subdivision or about 0.18 acres. Since this size dedication is much smaller than the minimum preferred park size, the Ravalli County Park Board recommends cash-in-lieu to meet their park obligation.

Thank you for providing us with the preliminary plant for comment. If you have questions, don't hesitate to contact Bob Cron at 375-2364.

Sincerely,

Robert M. Cron  
For  
Gary Leese  
Chairperson,  
Ravalli County Parks Board

Cc: Kammer Environmental Consulting, LLC  
P.O. Box 134  
Stevensville, MT 59870

EXHIBIT A-4

**Ravalli County Fire Council**  
Ravalli County, Montana  
November 2008

**RECEIVED**

JUL 27 2009  
IC-09-07-572  
Ravalli County Planning Dept.

## **FIRE PROTECTION STANDARDS**

The Ravalli County Fire Council (RCFC) has adopted Fire Protection Standards (FPS) for all new subdivisions within Ravalli County. These standards were established with consideration for the life and safety of the residents of Ravalli County, as well as the volunteer firemen and firewomen who protect Ravalli County, and to mitigate possible harm to the general public.

In establishing these standards emphasis was given to the National Fire Protection Association (NFPA) 1 Uniform Fire Code and The Ravalli County Subdivision Regulations (as amended May 24, 2007). These codes and regulations establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire-protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the NFPA 1 Uniform Fire Code and establishes a minimum fire prevention code for Montana.

### **ACCESS ROADS**

As used in this document, fire apparatus access roads include both internal subdivision roads, and individual driveways leading to structures from County or non-County maintained roads. Where the provisions of this document differ from the provisions of NFPA 1, the provisions of this document shall control.

The Fire District/Department requires that all roads and bridges meet or exceed, and are maintained to, the minimum requirements of the NFPA 1, Chapter 18, which reads in part:

**18.2.2.1 Required Access.** Fire apparatus access roads shall be provided in accordance with Section 18.2 for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction of a Fire District in Ravalli County.

**18.2.2.2 Access To Buildings.** A fire apparatus access road shall extend to within 50 ft (15 m) of a single exterior door providing access to the interior of the building.

**18.2.2.3.1 Additional Requirements For Access To Buildings.** Fire apparatus access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building hereafter constructed or moved into or within the



jurisdiction is located not more than 150 feet (46 m) from fire apparatus access roads as measured by an approved route around the exterior of the building or facility.

**18.2.2.4 Multiple Access Roads.** More than one fire apparatus access road shall be provided when it is determined by the Fire Chief that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

**18.2.2.5.1 Dimensions.** To allow the safe passage of fire apparatus to and from an incident, fire apparatus access roads shall have an unobstructed travel surface not less than 20 feet in width (6.1 m) and one-foot shoulders on each side for a total width of 22-feet, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4.1 m) over its entire length.

**18.2.2.5.2 Surface.** Fire apparatus access roads, including internal subdivision roads and individual driveways, shall be designed and maintained to support the imposed loads of fire apparatus over its entire length and shall be provided with a surface so as to provide all-weather driving capabilities.

- The surface of internal subdivision roads shall meet the specifications of the Ravalli County Subdivision Regulations.
- The surface of individual driveways shall be graded and surfaced with gravel, at a minimum.

**18.2.2.5.6 Grade.** The gradient for a fire apparatus access road shall not exceed the maximum approved by the Fire Chief. The Board of County Commissioners of Ravalli County set the maximum acceptable road grade at ten percent (10%). The Fire Chief may request that access roads be built to not exceed a grade of 6%. The Fire Chief shall write or otherwise contact the Planning Department with the specific request, and outline the rationale for making such a request. The request shall be made prior to the Commissioners meeting/hearing on the proposal.

**18.2.2.5.7 Marking of Fire Apparatus Access Road.** The Fire District/Department requests that as soon as construction begins all lots (premises) be posted with a temporary or permanent address at the premises driveway and upon occupancy with a permanent address posted in accordance with the NFPA 1.

**Exception:** When buildings are completely protected with an approved automatic sprinkler system, the provisions of NFPA 1, Chapter 18, may be modified by the Fire Chief.

**While not all parts of the NFPA 1 are listed above it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the NFPA 1 and the road standards as stated in the Ravalli County Subdivision Regulations.**

## **BUILDING STANDARDS**

The RCFC requests that all residential buildings be built to International Residential Building Code (IRBC) standards in order to protect persons and property, and that all subdivisions shall be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.

## **FIRE FLOW REQUIREMENTS**

At a minimum, every subdivision shall be provided with a water supply for the purpose of fire fighting as specified in NFPA 1. Fire flow requirements will be based upon the smallest lot size in a subdivision. Subdivisions may provide water according to the provisions below, or provide \$900 per lot cash-in-lieu of water.

### **Single-Family Dwellings:**

<b>Acres Per Lot/Density</b>	<b>Required GPM</b>	<b>Fire Flow Requirement Options</b>
20 or more acres per lot	500/one hour	#1 or #2 or #3
5 - 19.99 acres	500/two hours	#1 or #2
1 - 4.9 acres	750/two hours	#1 or #2
.5 - .99 acres	1000/two hours	#1 or #2
.25 - .49 acres	1000/two hours	Hydrants spacing every 1000 feet, and #2
Less than .25 acres	1500/two hours	Hydrants spacing every 500 feet, and #2 or #4

### **Fire Flow Requirement Options**

**Option #1.** Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. An overhead fill may be required in order to fill tankers. The fill site must be useable year round and the Fire District/Department must have legal access in perpetuity.

**Option #2.** Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 PSI from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the Fire District/Department and to the County Planning Department prior to the filing of the final plat.

**Option #3.** 30,000 gallon storage with dry hydrant. Dry hydrant applications may be used for ponds, streams and lakes. The system must be designed to be useable and accessible year round. All pipe must be a minimum of 6 inch diameter and the threads at the outlet must be 6 inch male NST.

**Option #4.** Water shall be supplied by a community water system. The system shall be capable of delivering the required gpm at a minimum of 20 PSI from approved fire hydrants. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the Fire District/Department and County Planning.

**Single-Family Dwellings Greater Than Two Stories:**

In addition to providing water supply according to the above requirements, single-family dwellings more than two stories in height above ground are required to install a residential sprinkler system. The system shall be engineered, installed, fully operational and compliant with the current edition of the applicable NFPA standard.

**Buildings Other Than Single-Family Dwellings:**

All other developments including multi-family dwellings, commercial, industrial, or mixed use buildings require fire flows higher than 500 GPM for 120 minutes and will have to be engineered by the developer to determine needed fire flows in accordance to NFPA 1 fire flow requirements. The Fire District/Department shall approve of the design for fire flow prior to construction and the fire flow facilities after construction.

Buildings other than single-family dwellings shall be sprinkled according to NFPA standards. Commercial storage units are exempt from sprinkling requirements.

**Cash-in-lieu of Water Option:**

The Fire District/Department realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a voluntary contribution payment of \$900.00 (Nine Hundred Dollars) per lot, in lieu of the water supply required by the NFPA 1. Payment of \$900.00 per lot will be due prior to the final plat approval of the subdivision. Funds paid in lieu of the water supply required by the NFPA 1 will be used to maintain or improve fire protection within the District/Department.

**Reduced Required Fire Flow with Sprinkler System:**

If all habitable structures are sprinkled according to NFPA standards, then up to one half of the water supply requirements will be waived and the in lieu of payment schedule may be reduced by 50% (fifty percent). The Subdivision Covenants must state that "All residences constructed within the subdivision will be protected with an approved automatic sprinkler system." Payment for the reduced amount of \$450.00 per lot will be due prior to the final plat approval of the subdivision. If at any time any residence is built within the subdivision without an approved sprinkler system, all lots will be subject to an additional \$450.00 payment, regardless of whether they have sprinklers in residences located on them or not.

**Maintenance:**

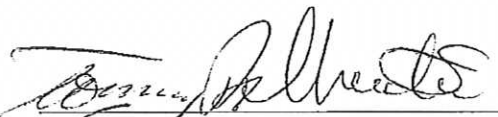
The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision, pursuant to NFPA 1, Section 18.3.5. A homeowners association must be created. Homeowners association documents shall describe how water supply systems are

to be maintained currently and in the future, by whom, and how local fire protection authority can be assured that the water supply will function appropriately. An easement for unrestricted use by the fire department, in perpetuity, of the water supply system shall be recorded and noted on the plat. The fire department will not be responsible for any maintenance, electricity, or any costs associated with enhancements, upgrades or other measures necessary to assure the system functions to original specifications.

Ravalli County Fire Council:

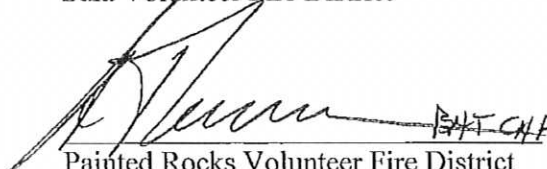
\_\_\_\_\_  
Florence Volunteer Fire District

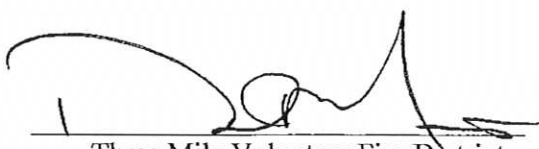
  
\_\_\_\_\_  
Stevensville Rural Volunteer Fire District

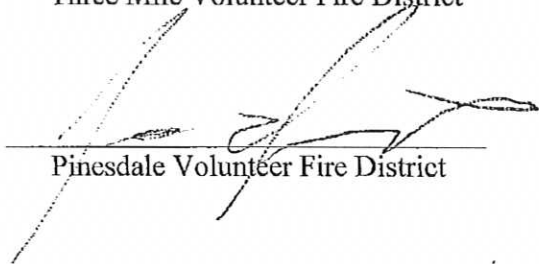
  
\_\_\_\_\_  
Victor Volunteer Fire District

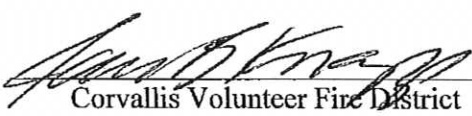
  
\_\_\_\_\_  
Hamilton Rural Fire District


\_\_\_\_\_  
Sula Volunteer Fire District

  
\_\_\_\_\_  
Painted Rocks Volunteer Fire District

  
\_\_\_\_\_  
Three Mile Volunteer Fire District

  
\_\_\_\_\_  
Pinesdale Volunteer Fire District

  
\_\_\_\_\_  
Corvallis Volunteer Fire District

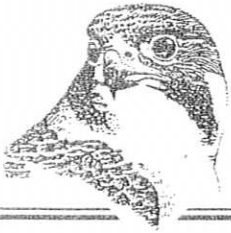
  
\_\_\_\_\_  
Darby Volunteer Fire District

\_\_\_\_\_  
West Fork Volunteer Fire District

On October 1, 2009, Randy Fifrick spoke over the phone with current Florence Fire Chief Charlie Lambson to discuss the FOH, Portion of Lot 34, AP Subdivision and the recent Ravalli County All Valley Fire Council mitigation letter sent the Planning Department. Florence was one of the two fire districts that did not sign the letter. Charlie said his Board was not comfortable raising the cash in lieu of water supply from \$500 to \$900. His Board was in agreement with the rest of the provisions except they are asking \$500 or the water supply.

A handwritten signature in black ink, appearing to be 'R. Fifrick', with a long, sweeping horizontal stroke extending to the right.





**F**LORENCE  
**C**ARLTON  
**S**CHOOL

FCS Home Page: [www.florence.k12.mt.us](http://www.florence.k12.mt.us)

5602 Old Hwy 93  
Florence MT 59833

JOHN MCGEE  
SUPERINTENDENT  
Ph. (406) 273-6751

DANIEL GRABOWSKA  
PRINCIPAL, GR. 9-12  
Ph. (406) 273-6301

AUDREY BACKUS  
PRINCIPAL, GR. 6-8  
Ph. (406) 273-0587

VANCE VENTRESCA  
PRINCIPAL, GR. K-5  
Ph. (406) 273-6741

CHRISSY HULLA  
ASST. PRINCIPAL, GR. K-5  
Ph. (406) 273-6741

JULIE MASON  
BUSINESS MANAGER  
Ph. (406) 273-6751

April 7, 2008

Ravalli County Planning Board  
215 S. 4<sup>th</sup> Street, Suite F  
Hamilton, MT 59840

RECEIVED  
APR 10 2008 337  
IC-08-04-337  
Ravalli County Planning Dept.

Re: Florence Orchard Homes

Dear Ms. Riddell:

Your letter to the Florence-Carlton School District dated April 2, 2008, requested comments about the Florence Orchard Homes Portion of Lot 34 AP. In anticipation of this and other subdivisions, our district formed a Mitigation Fee Committee. This committee took an in depth look at the impact subdivisions would have on our district. They used information commonly requested by the county commissioners when reviewing subdivisions, and information from an August 8, 2006 Impact Fee Study completed for our district. You will find that the district is requesting a fee of \$10,418 per lot, and will file this request with the Ravalli County Planning Board. We also wish to have it on record that the District will not provide transportation services for any students who do live on county roads.

If you have any questions, please do not hesitate to contact me.

Sincerely,

John C. McGee  
Superintendent

# Budget Per Pupil/Tax Levy Per Pupil

RECEIVED

AUG 10 2009  
12-07-08-608  
Ravalli County Planning Dept.

## Year 2008-2009

School	Total Students		Budget
	Budget	October	
School	Count		Per Pupil
	Budget	October	
Corvallis	9,686,688	1,440	6,727
Stevensville Elem	4,606,392	639	7,209
Stevensville HS	3,990,733	457	8,732
Hamilton	11,455,380	1657	6,913
Victor	2,516,347	376	6,692
Darby	3,952,902	457	8,650
Lone Rock Elem	2,026,281	317	6,392
Florence	6,245,720	917	6,811

NOTE: This does not include any federal funds or budget for federal programs.  
This makes these figures reflect budget and revenue only from  
state, county and local sources.

School	Total Tax		Students	Tax Levy		Total	Tax Levy	
	Except	October		County	Exc		Per Pupil	Inc
School	Capital	Count		Levy	Capital	Capital	Capital	Capital
	Capital	Count		Levy	Capital	Capital	Capital	Capital
Corvallis	1,945,571	1,440	960,886	2,018	158,095	109.79	3,064,552	2,128
Stevensville Elem	853,220	639	425,003	2,000	198,155	310.10	1,476,378	2,310
Stevensville HS	1,062,245	457	321,675	3,028	0	0.00	1,383,920	3,028
Hamilton	3,147,024	1,657	1,153,576	2,595	934,563	564.01	5,235,163	3,159
Victor	554,255	376	261,145	2,169	325,709	866.25	1,141,109	3,035
Darby	1,227,438	457	412,405	3,588	0	0.00	1,639,843	3,588
Lone Rock Elem	438,161	317	231,000	2,111	103,686	327.09	772,847	2,438
Florence	1,468,060	917	591,759	2,246	35,194	38.38	2,095,013	2,285

## NOTES:

- 1 Total Tax except capital - local taxes excluding debt service
- 2 Student October Count - The first official student count day
- 3 County Levy - The county levies for districts retirement and transportation
- 4 Tax Levy per pupil - total tax plus county levy divided by the student October count
- 5 Total Capital - Amount levied for debt service
- 6 Tax Capital per pupil - Cost per pupil for debt service
- 7 Total Tax levy plus Capital Tax - all levied dollars for schools
- 8 Total Tax levy plus Capital Tax - all levied dollars for schools per pupil

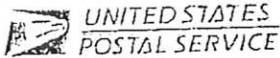
BIG SKY DISTRICT  
GROWTH MANAGEMENT

RECEIVED

JUN 10 2007

Ravalli County Planning Dept.

10-07-06-729



June 8, 2007

To: County Planning Office  
Subject: Mail Delivery Options for New Subdivisions

The US Postal Service would like to partner with your county in preliminary planning for new subdivisions. We are looking for methods to ensure mail delivery is available to customers on day one of occupancy in a new development. We are asking for your help to make sure we have a consistent approach across the state. Developers have approached us suggesting that mail delivery plans/requirements be included with the original applications to the county for plat approval. We think this is a wonderful idea.

Would your county be able to incorporate the following US Postal Service requirements into your plat applications?

- Centralized Delivery is the method of delivery for all subdivisions and/or developments including commercial developments.
- Developers/owners should contact their local Post Office before making plans for the location of centralized delivery. Locations for Centralized Delivery installation are determined by the US Postal Service or by mutual agreement.
- The purchase of Collection Box Units (CBU's) is the responsibility of the developer or owner(s). A current list of authorized manufacturers is attached.
- The attached outlines concrete pad specifications for CBU placement.

We have had incredible success in other Montana counties by combining planning requirements into the initial plat applications and look forward to the continued success with your county. This process has made it much easier for developers, owners, and residents to quickly and easily obtain mail delivery.

Please contact me at 406-657-5710 or at the address below with any questions you may have in regards to new growth policies of the US Postal Service within our Big Sky District.

Sincerely,

Mike Wyrwas  
Growth Management Coordinator  
Big Sky District

841 S 26<sup>TH</sup> STREET  
BILLINGS, MT 59101-9334  
PHONE 406-657-5710  
FAX: 406-657-5788  
EMAIL MIKE.WYRWAS@USPS.GOV

**EXHIBIT A-9**

Randy Fifrick

---

**From:** Wyrwas, Mike - Billings, MT [mike.wyrwas@usps.gov]  
**Sent:** Friday, June 29, 2007 9:26 AM  
**To:** Randy Fifrick  
**Subject:** RE: Mail Delivery Options for New Subdivisions

Randy:

We are on the same page in regards to mail delivery options for new subdivisions, with the following exceptions:

- 1) If a subdivision has less than eight (8) lots, centralized delivery may be required if the entrance to a subdivision is a private road or the local post office feels that a CBU is more efficient than a row of rural mail boxes.
- 3) CBU units do not have to be installed prior to final plat approval. They can be installed after final plat approval as long as the locations are approved by the local post office.

If situations do occur where your department does not review some building projects, please direct any questions regarding mail delivery to the local Postmaster.

Thanks for your attention to our mail delivery options.

Mike Wyrwas  
 Operations Programs Support

-----Original Message-----

**From:** Randy Fifrick [mailto:rfifrick@ravallicounty.mt.gov]  
**Sent:** Tuesday, June 26, 2007 8:59 AM  
**To:** Wyrwas, Mike - Billings, MT  
**Subject:** Mail Delivery Options for New Subdivisions

Hi Mike,

I discussed our conversation on June 26th and your letter dated June 8th with the rest of the Planning Department. I just wanted to confirm that we are on the same page as to the mail delivery options for new subdivisions. Following is a list of items the Planning Department should request or require from developers:

- 1) Centralized Delivery should be required for subdivisions of eight or more lots, including commercial subdivisions.
- 2) Developers/owners should submit plans for Collection Box Units (CBUs), including the locations, to their local post office. Locations for centralized delivery installation should be approved by the US Postal Service.
- 3) The purchase of the Collection Box Units (CBU's) is the responsibility of the developer or owner. The units should be installed by the developer prior to final plat approval.

Please be advised that certain situations do not require subdivision review so the projects never come through the Planning Department. Multi-unit commercial buildings constructed on one lot (strip mall, etc) do not require subdivision review if the units are structurally attached and will be rented/lease (not sold as condominiums).

**Randy Fifrick**

---

**From:** Lea Jordan  
**Sent:** Tuesday, April 01, 2008 1:29 PM  
**To:** Karen Mahar; Karen Hughes; Renee Lemon  
**Subject:** FW: Updated PM2.5 Data Review

Dear Interested Party:

The Montana Department of Environmental Quality (DEQ) has reviewed the PM2.5 (particulate matter  $\leq 2.5$  micron) data collected in 2007 and incorporated it into the PM2.5 dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. Attached is a document summarizing some of the issues with the revised particulate matter (PM) National Ambient Air Quality Standards (NAAQS) and PM data for several Montana communities. This document is also available on the DEQ website under the What's New section of the Air Quality Information page (<http://deq.mt.gov/AirQuality/AQinfo.asp>).

As required by the Federal Clean Air Act and based on ambient air monitoring data collected in 2004, 2005 and 2006, DEQ in December 2007 notified EPA as to which Montana communities were not complying with the PM NAAQS. EPA will review Montana's submittal and our latest air monitoring data as it becomes available before making a decision on which communities are in violation of the federal standards. In the future for those Montana communities found in violation of any NAAQS, federally enforceable control plans must be submitted to EPA for their approval. In a proactive attempt, DEQ wants to work with local air pollution control agencies, the regulated community, and other interested parties to identify and control sources of particulate matter air pollution. DEQ representatives are willing to meet with interested parties in their communities at mutually agreed upon dates and times. In addition to the PM NAAQS discussion, other air quality topics of interest could be discussed. If interested, please contact myself or Bob Habeck ([bhabeck@mt.gov](mailto:bhabeck@mt.gov) or 444-7305) to schedule a meeting.

As part of the annual air quality data review process, DEQ will hold a public meeting to discuss the future direction of Montana's ambient air monitoring network. That meeting will be held on Wednesday, 19 March 2007 from 8:30 A.M. to 12:30 P.M. The meeting location is the Middle Commission Room in the Fish, Wildlife & Parks building at the 1420 East 6th Avenue in Helena. If you need further directions or other information, please contact me.

Thank you for your interest in protecting Montana's clean air resource.

Robert K. Jeffrey  
Air Quality Specialist  
Air Resources Management Bureau  
MT Dept. of Environmental Quality  
(406) 444-5280; fax 444-1499  
Email: [rjeffrey@mt.gov](mailto:rjeffrey@mt.gov)





## Montana Fish, Wildlife & Parks

Region 2 Office  
3201 Spurgin Road  
Missoula, MT 59804-3101  
406-542-5500  
September 30, 2005

Susan Vieth  
Kammerer Environmental Consulting  
PO Box 134  
Stevensville, MT 59870

Dear Ms. Vieth:

Reference: Florence Orchard Homes, Lot 34 (Sapphire Mountain Properties)--Proposed  
minor (4-lot) subdivision, Florence

We have reviewed the amended subdivision plat and topographic map for this proposal, and we offer the following comment.

Although this subdivision is in the northern portion of the town of Florence, it is located between riparian areas associated with One Horse Creek and Tie Chute Creek. Within one-half mile to the west are forested areas that continue westward, transitioning rapidly into State and Forest Service lands. Wildlife such as white-tailed deer, fox, and skunk are found in the area, as well as an occasional black bear or mountain lion, and numerous smaller mammal and bird species. There is a high likelihood of human/wildlife conflicts if residents do not pay attention to careful handling of garbage, storing attractants, pet control, etc. Therefore, we feel that a "living with wildlife" section should be included as a covenant section (or development covenant) for this subdivision in order to help future homeowners deal with and avoid potential wildlife issues. We have attached a copy of our recommended covenant section.

Thank you for providing the opportunity for MFWP to comment on this subdivision. (Please contact Sharon Rose at 542-5540 or [shrose@mt.gov](mailto:shrose@mt.gov) if you wish to receive an electronic version of these comments or covenants.)

Sincerely,

*/s/ Mack Long*

Mack Long  
Regional Supervisor

ML/sr

C: Ravalli County Planning Department, Attn: Kelli Zittergruen, 215 S. 4 St., Ste. F, Hamilton, MT 59840

**EXHIBIT A-11**

Section \_\_: Living with Wildlife

Homeowners must accept the responsibility of living with wildlife, and must be responsible for protecting their vegetation from damage, as well as properly storing garbage and other potential attractants. Owners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, coyote, fox, raccoon or skunk. Contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help owners “live with wildlife.” Alternatively, see the Education portion of FWP’s web site at [www.fwp.mt.gov](http://www.fwp.mt.gov).

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe or rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, dogs, etc. It is best not to set garbage cans out until the morning of garbage pickup.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to provide supplemental feed attractants if it results in a “concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.” Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Bird feeders** attract bears. Consider not using them in this area between the months of April through October. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c)

should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- g. **Pet food (and livestock feed, if livestock are allowed)** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, etc. **When feeding pets (or livestock)** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on the grill, lid, etc. can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence.
- j. **Compost piles** can attract skunks. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)



## **Montana Fish, Wildlife & Parks**

*Updated Wildlife Covenants for Florence Orchard Homes, Lot 34 (Sapphire Mountain) subdivision, recommended by Montana Fish, Wildlife & Park; Missoula; September 24, 2009*

### **Section \_\_: Wildlife**

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners “live with wildlife.” Alternatively, see FWP’s web site at <http://fwp.mt.gov>.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on “all-species electric fencing” designed to exclude wildlife from gardens and/or home areas.)
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as raccoon, black bear, and other wildlife. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily

accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract any ungulates (deer, elk, antelope), bears, or mountain lions with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that wildlife such as wild turkey and deer can attract mountain lions to the area.

- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence. Contact FWP for a brochure or information on building fence with wildlife in mind.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells



and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)

- l. **Apiaries (bee hives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.
- m. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (County Commissioners).